

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALFREDO’S FOREIGN CARS, INC., *d/b/a*
LARCHMONT CHRYSLER JEEP DODGE,

Plaintiff,

v.

STELLANTIS US LLC *f/k/a* FCA US LLC,

Defendant.

No. 22-CV-10478 (KMK)

ORDER

KENNETH M. KARAS, United States District Judge:

Defendant argues in its Motion To Dismiss that the judgment of the New York Department of Motor Vehicles, a state administrative agency, is entitled to res judicata effect. (*See generally* Mem. of Law in Supp. of Mot. To Dismiss (Dkt. No. 29).) The law on this issue appears to be the subject of a circuit split. *See Celotto v. Ryan*, No. 16-CV-1038, 2021 WL 2910290, at *2 (W.D.N.Y. July 12, 2021) (noting, in the civil rights context, that whether res judicata applies to “an unreviewed administrative proceeding” is “the subject of a circuit split, and the Second Circuit has not taken a side”); *see also Leventhal v. Knapek*, 266 F.3d 64, 73 n.3 (2d Cir. 2001) (citing *Doe v. Pfrommer*, 148 F.3d 73, 80 (2d Cir. 1998) (“Currently, this circuit has not taken a position regarding the split in the circuits as to whether to give preclusive effect to the unreviewed legal determinations of state administrative decisions.”))).

The Parties are therefore directed to submit supplemental briefing addressing the following two issues: (1) whether the Court must resolve the question implicated in the split to decide the pending Motion; and (2) if so, what result it should reach. The initial submissions of both Parties shall be no longer than 10 pages and are due no later than November 3, 2023. Each

party may submit a five-page response no later than November 10, 2023. There will be no extensions.

SO ORDERED.

Dated: October 20, 2023
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', written over a horizontal line.

KENNETH M. KARAS
United States District Judge